IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF OCTOBER

TWO THOUSAND AND FIVE

:PRESENT:

THE HON'BLE MR JUSTICE : B. SUDERSHAN REDDY

A N D

THE HON'BLE MR JUSTICE : S. ANANDA REDDY

WRIT PETITION NOS : 6848, 5185, 922, 5194, 15655, 6849/04 1802/05, TREVC.Nos. 215, 217, 218 of 2004 AND W.P.NO. 11875 OF 2004.

W.P.No. 6484 of 2004 :

Between:

Amara Raja Batteries Limited, Karakambadi-517 520, Tirupati, Chittoor District, rep. by its Executive Chairman, Sri Ramachandran N.Galla.

..... PETITIONER

AND

1. Assistant Commissioner (CT) LTU, (FAC), Chittoor District.
2.The Commissioner of Commercial Taxes, Hyderabad.
(R2 is impleaded as per Court order dt. 17-10-2005)

.....RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly in the nature of Writ of Mandamus, declaring (i) that the petitioner is entitled to tax deferment benefit in respect of enhanced turnover in excess of base year production i.e., 1,26,297 units (VRLA Batteries) and accordingly direct the respondent authorities to extend the benefit of deferment in respect of the turnover corresponding to the said enhanced production over and above the base year production of 1,26,297 units and (ii) quash the assessment orders issued by the Assistant Commissioner vide G.I.No.1228/2000-2001/APGST dt. 15-3-2004 to the extent they are contrary to the aforesaid.

COUNSEL FOR PETITIONER : Mr. Y. Venkatesh Reddy

COUNSEL FOR RESPONDENTS : Mr. A.V. Kishna Koundinya, Special Standing Counsel for Commercial Taxes.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 9-4-2004 and made in WP.NO. 6848 of 2004 and upon hearing the arguments above mentioned counsels.

W.P.NO. 5185 of 2004 :-

Between :

Amara Raja Batteries Limited, Karakambadi – 517 520, Tirupati, Chittoor District, rep. by its Executive Chairman, Sri Ramachandran N Galla.

..Petitioner.

AND

Assistant Commissioner (CT) LTU, (FAC), Chittoor District.

..Respondent.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of Writ of Mandamus, declaring (i) that the petitioner is entitled to tax deferment benefit in respect of enhanced turnover in excess of base year production i.e., 1,26,297 units (VRLA Batteries) and accordingly direct the respondent authorities to extend the benefit of deferment in respect of the turnover

corresponding to the said enhanced production over and above the base year production of 1,26,297 units and (ii) quash the assessment orders issued by the Assistant Commissioner vide G.I.No.1228/2000-2001/APGST dt. 19-2-2004 (April to November, 2003) and G.I.No. 1228/2003-04/APGST dt. 9-3-2004 (December, 2003 to January, 2004) to the extent they are contrary to the extent they are contrary to the aforesaid.

Contd..2…

COUNSEL FOR PETITIONER : Mr. Y. Venkatesh Reddy
COUNSEL FOR RESPONDENTS : Mr. A.V. Kishna Koundinya,
Special Standing Counsel for
Commercial Taxes.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 22-3-2004 and made in W.P.No. 5184 of 2004 and upon hearing the arguments above mentioned counsels.

W.P.No. 922 of 2004 :-

Between :-

M/s. Sanghi Polyesters Limited, Sanghinagar, Ranga Reddy District,
Rep. by its Vice President, Mr. Sunil Pareek.

..Petitioner.

A N D

1. The Commercial Tax Officer, Saroornagar Circle, Ranga Reddy District.
2. The Commissioner of Industries, Government of Andhra Pradesh, Chirag Ali Lane, Hyderabad.
3. The Commissioner of Commercial Taxes, Andhra Pradesh, Nampally, Hyderabad.

..Respondents.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ or Order or direction quashing the order of the 1st Respondent dated 29-12-2003 passed by he 1st Respondent in so far as he rejected incentive of sales tax exemption from 1-9-2002 in the assessment year 2002-03 on achievement of base production of 25000 MTs by 31-8-2004.

COUNSEL FOR PETITIONER : Mr. P. Srinivasa Reddy
COUNSEL FOR RESPONDENT NO.1: The Govt. Pleader for Taxes.
COUNSEL FOR RESPONDENT Nos.2 & 3 : Mr. A.V. Kishna Koundinya,
Special Standing Counsel for
Commercial Taxes.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 20-1-2004 and made in WP.No. 922 of 2004 and order dt. 10-2-2004 and made in WPMP.NO. 1196 of 2004 and upon hearing the arguments above mentioned counsels.

W.P.No. 5194 of 2004 :-

Between :

Amara Raja Batteries Limited, Karakambadi – 517 520, Tirupati,

Chittoor District, rep. by its Manager, J. Mallikarjuna Rao.

..Petitioner.

AND

Assistant Commissioner (CT) LTU, (FAC), Chittoor District.

..Respondent.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction, declaring (i) that the petitioner is entitled to tax deferment benefit in respect of enhanced turnover in excess of base year production i.e., 1,26,297 units (VRLA Batteries) and accordingly direct the respondent authorities to extend the benefit of deferment in respect of the turnover corresponding to the said enhanced production over and above the base year production of 1,26,297 units and (ii) quash the assessment orders issued by the Assistant Commissioner vide G.I.No.225/2003-04/CST dt. 19-2-2004 (April to November, 2003) and G.I.No. 225/2003-04/CST dt. 9-3-2004 (December, 2003 to January, 2004) to the extent they are contrary to the aforesaid.

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COUNSEL FOR PETITIONER : Mr. Y. Venkatesh Reddy
COUNSEL FOR RESPONDENT : Mr. A.V. Kishna Koundinya, Special Standing Counsel for Commercial Taxes.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 22-3-2004 and made in WP.No. 5194 of 2004 and upon hearing the arguments above mentioned counsels.

W.P.No. 15655 of 2004 :-

Between :-

Rohit Extractions Limited, 5-9-191, 1st Floor, Brindavan Commercial Complex, C.A. Lane, Abids, Hyderabad, Rep by its authorised signatory Mr. N.B Ramaiah. **.....**

PETITIONER

AND

1.State of Andhra Pradesh, rep by its Secretary, Department of Revenue, Hyderabad.
2.Commercial Tax Officer, Nampally Circle, Hyderabad.
3.Appellate Deputy Commissioner (CT), Secunderabad Division, Hyderabad.

.....RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly in the nature of Writ of Mandamus, declaring (i) that the petitioner is entitled to tax deferment benefit in respect of enhanced turnover in excess of base production i.e. 6000M.Ts. of oil and accordingly direct the respondent authorities to extend the benefit of deferment in respect of the turnover corresponding to the entire enhanced production over the above the base year production of 6000 M.Ts. of Oil and ii) quash the orders of assessment passed by the CTO, Nampally, Hyderabad, dt. 26-6-2004 and 14-6-2004 for the Assessment Years 2002-2003, 2003-2004 and 2004-2005 as partly confirmed by the

Appellate Deputy Commissioner vide Appeal No. A97/2004-05 to A101/2004-05 dated 13-08-2004 to the extent they are contract to the declaring sought in relief No. (i).

COUNSEL FOR PETITIONER :Mr. M. Vijayasaradhi Reddy

COUNSEL FOR RESPONDENT Nos. 2 & 3 : Mr. A.V. Kishna Koundinya, Special Standing Counsel for Commercial Taxes.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 1-9-2004 and made in WPMP.No. 20340 of 2004 and upon hearing the arguments above mentioned counsels.

W.P.No. 6849 of 2004 :-

Between :

Amara Raja Batteries Limited, Karakambadi –517 520, Tirupati, Chittoor District, rep. by its Executive Chairman, Sri Ramachandran N. Gall.

..Petitioner.

A N D

Assistant Commissioner (CT) LTU, (FAC), Chittoor District. ..Respondent.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus, declaring (i) that the petitioner is entitled to tax deferment benefit in respect of enhanced turnover in excess of base year production i.e., 1,26,297 units (VRLA Batteries) and accordingly direct the respondent authorities to extend the benefit of deferment in respect of the turnover corresponding to the said enhanced production over and above the base year production of 1,26,297 units and (ii) quash the assessment orders issued by the Assistant Commissioner vide G.I.No.225/2000-01/CST dt. 15-3-2004 to the extent they are contrary to the aforesaid.

COUNSEL FOR PETITIONER : Mr. Y. Venkatesh Reddy

COUNSEL FOR RESPONDENT : Mr. A.V. Kishna Koundinya, Special Standing Counsel for Commercial Taxes.

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The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 9-4-2004 and made in WP.No. 6849 of 2004 and upon hearing the arguments above mentioned counsels.

W.P.No. 1801 of 2005 :-

Between :-

Amara Raja Batteries Limited, Karakambadi –517 520, Tirupati, Chittoor District, rep. by its Executive Chairman, Sri Ramachandran N. Galla.

..Petitioner.

A N D

1. Assistant Commissioner (CT) LTU (FAC), Chittoor District.
2. The Commissioner of Commercial Taxes, Hyderabad.
   (R2 is impleaded as per Court order dt. 17-10-2005).

..Respondents.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will

be pleased to issue Writ, Order or Direction more particularly in the nature of writ of Mandamus declaring (a) that the petitioner is entitled to tax deferment in respect of enhance turnover in excess of base year production i.e. 126297 units (VRLA Batteries) and accordingly direct the respondent authorities to extend the benefit of deferment in respect of the turnover corresponding to the said enhanced production over and above the base year production of 12697 units and (ii) and set aside the endorsement GI No. 1228/2004-05 (APGST_/GI.No. 225/2004-05(CST) dt. 26-10-2004 and Demand Notice in Form "B2" dt. 16-12-2004 and Demand inform CST VII dt. 16-12-2004 issued for the month of November, 2004 under APGST & CST Acts respectively.

COUNSEL FOR PETITIONER : Mr. S. Chakrapani
COUNSEL FOR RESPONDENTS : Mr. A.V. Kishna Koundinya,
Special Standing Counsel for
Commercial Taxes.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 16-2-2005 and made in WP.No. 1801 of 2005 and upon hearing the arguments above mentioned counsels.

WP.No. 1802 of 2005 :-

Between :-
Amara Raja Batteries Limited, Karakambadi –517 520, Tirupati,
Chittoor District, rep. by its Executive Chairman,
Sri Ramachandran N. Galla.
..Petitioner.

A N D

1. Assistant Commissioner (CT) LTU (FAC), Chittoor District.
2. The Commissioner of Commercial Taxes, Hyderabad.
(R2 is impleaded as per Court order dt. 17-10-2005)

..Respondents.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ, Order or Direction more particularly in the nature of writ of Mandamus declaring (a) that the petitioner is entitled to tax deferment in respect of enhance turnover in excess of base year production i.e. 126297 units (VRLA Batteries) and accordingly direct the respondent authorities to extend the benefit of deferment in respect of the turnover corresponding to the said enhanced production over and above the base year production of 12697 units and (ii) and set aside the endorsement GI No. 1228/2004-05 (APGST_/G.I.No. 225/2004-05(CST) dt. 26-10-2004 and Demand Notice in Form 'B2' dt. 25-11-2004 and Demand in Form CST VII dt. 25-11-2004 issued for the month of October, 2004 under APGST & CST Acts respectively.

COUNSEL FOR PETITIONER : Mr. S. Chakrapani
COUNSEL FOR RESPONDENTS : Mr. A.V. Kishna Koundinya,
Special Standing Counsel for
Commercial Taxes.

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The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 16-2-2005 and made in WP.No. 1802 of 2005 and upon hearing the arguments above mentioned counsels.

TREVC.No. 215 of 2004 :-

Between :

M/s. Orient Cement, Devapur, Adilabad District,
Rep. by its Assistant Manager (Accounts), P.K. Bhomia.
..Petitioner.

A N D

The State of Andhra Pradesh, rep. by it State Representative,
Before the Sales Tax Appellate Tribunal, Nampally, Hyderabad.
..Respondent.

COUNSEL FOR PETITIONER : Mr. P. Srinivasa Reddy
COUNSEL FOR RESPONDENT :

The Revision Petition presented to the High Court of Andhra Pradesh U/s. 22(1) of the Andhra Pradesh General Sales Tax Act, 1957 to revise the order of the Sales Tax Appellate Tribunal in T.A.No. 776 of 2002, dated 27-9-2003.

TREVC.No. 217 of 2004 :-

Between :

M/s. Orient Cement, Devapur, Adilabad District,
Rep. by its Assistant Manager (Accounts), P.K. Bhomia.
..Petitioner.

A N D

The State of Andhra Pradesh, rep. by it State Representative,
Before the Sales Tax Appellate Tribunal, Nampally, Hyderabad.

..Respondent.
COUNSEL FOR PETITIONER : Mr. P. Srinivasa Reddy
COUNSEL FOR RESPONDENT :

The Revision Petition presented to the High Court of Andhra Pradesh U/s. 22(1) of the Andhra Pradesh General Sales Tax Act, 1957 to revise the order of the Sales Tax Appellate Tribunal in T.A.No. 775 of 2002, dated 27-9-2003.

TREVC.No. 218 of 2004 :-

Between :

M/s. Orient Cement, Devapur, Adilabad District,
Rep. by its Assistant Manager (Accounts), P.K. Bhomia.
..Petitioner.

A N D

The State of Andhra Pradesh, rep. by it State Representative,
Before the Sales Tax Appellate Tribunal, Nampally, Hyderabad.

..Respondent.
COUNSEL FOR PETITIONER : Mr. P. Srinivasa Reddy
COUNSEL FOR RESPONDENT :

The Revision Petition presented to the High Court of Andhra Pradesh U/s. 22(1) of the Andhra Pradesh General Sales Tax Act, 1957 to revise the order of the Sales Tax Appellate Tribunal in T.A.No. 774 of 2002, dated 27-9-2003.

W.P.No. 11875 of 2004 :-

Between :-

Amara Raja Batteries Limited, Karakambadi – 517 520, Tirupati,

Chittoor District, rep. by its Executive Chairman, Sri Ramachandran N. Galla.
..Petitioner.

AND

1. Assistant Commissioner (CT) LTU, (FAC), Chittoor District.
2. The Commissioner of Commercial Taxes, Hyderabad.
   (R2 is impleaded as per Court order dt. 17-10-2005).

..Respondents.

Contd….6..

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly in the nature of Writ of Mandamus, declaring (10 that the petitioner is entitled to tax deferment benefit in respect of enhanced turnover in excess of base year production i.e., 1,26,297 units (VRLA Batteries) and accordingly direct the respondent authorities to extend the benefit of deferment in respect of the turnover corresponding to the said enhanced production over and above the said enhanced production over and above the base year production of 1,26,297 units and (ii) set aside the assessment orders issued by he Assistant Commissioner vide G.I.No. 225/2001-2002/CST dt. 27-05-2004 to the extent they are contrary to the aforesaid.

COUNSEL FOR PETITIONER : Mr. S. Chakrapani
COUNSEL FOR RESPONDENTS : Mr. A.V. Kishna Koundinya, Special Standing Counsel for Commercial Taxes.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 27-7-2004 and made in WPMP.No. 15097 of 2004 and upon hearing the arguments above mentioned counsels.

The Court made the following Common order :-

The issue involved in all these cases is interpretation of G.O.Ms.No. 75 dated 14-3-1996 and as well as G.O.Ms.No. 20-5-1996. Incidentally, the scope and intendment of G.O.Ms.No. 386 dated 26-09-1994 also comes up for consideration.

The counter affidavit filed by the Assistant Commissioner of Commercial Taxes, Chittoor and the counter affidavit filed by the Industries Department in W.P.No. 922 of 2004 are at variance. It is needless to observe that the Government, be it the Commercial Tax Department or the Industrial Department, are required to speak in one voice.

In such view of the matter, it has become just and necessary to direct the Commissioner of Commercial Taxes to file detail

comprehensive affidavit in this batch of writ petitions.

Sri A.V. Kishna Koundinya, Special Standing counsel for Commercial Taxes, having accepted the notice on behalf of the Commissioner of Commercial Taxes, requests 10 days time for filing counter affidavit by the Commissioner of Commercial Taxes.

Post on 27-10-2005.

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

Contd..7…

To

1. The Assistant Commissioner (CT) LTU, (FAC), Chittoor District. **(By Speed Post)**
2. The Commissioner of Commercial Taxes, Andhra Pradesh, Nampally, Hyderabad. **(By Spl. Messenger)**
3. The State Representative, State of Andhra Pradesh, Before the Sales Tax Appellate Tribunal, Nampally, Hyderabad. **(By Special Messenger)**
4. The Secretary, State of Andhra Pradesh, Department of Revenue, Hyderabad.**(By Special Messenger)**
5. The Commercial Tax Officer, Nampally Circle, Hyderabad. **(By Special Messenger)**
6. The Appellate Deputy Commissioner (CT), Secunderabad Division, Hyderabad.**(By Special Messenger)**
7. The Commercial Tax Officer, Saroornagar Circle, Ranga Reddy District. **(By Special Messenger)**
8. The Commissioner of Industries, Government of Andhra Pradesh, Chirag Ali Lane, Hyderabad.**(By Special Messenger).**
9. Two CCs to the Govt. Pleader for Taxes, High Court of A.P., Hyd(OUT)
10. Mr. A.V. Krishna Koundinya, Special Standing Counsel for Commercial Taxes, High Court of A.P., Hyd**(By Special Messenger).**
11. Two spare copies.

TKK

HIGH COURT

BRSR.J & SAR.J

DT.17-10-2005.

ORDER

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WRIT PETITION NOS : 6848, 5185, 922, 5194,
15655, 6849/04 1802/05,
TREVC.Nos. 215, 217, 218 of 2004 AND
W.P.NO. 11875 OF 2004.

DIRECTION.

DRAFTED BY TKK
DT.20-10-2005.

HIGH COURT

BRSR.J & SAR.J

DT.17-10-2005.

Note :- Post on 27-10-2005.

ORDER

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WRIT PETITION NOS : 6848, 5185, 922, 5194, 15655, 6849/04 1802/05, TREVC.Nos. 215, 217, 218 of 2004 AND W.P.NO. 11875 OF 2004.

DIRECTION.